

REMARKS

Claims 1, 3, 4, 6-17 are pending. Claims 2 and 5 have been canceled without prejudice.

In the above-amendment, Applicants have: a) amended claim 1 to recite the subject matter of claim 2 and canceled claim 2; b) amended claim 4 to recite the subject matter of claim 5 and canceled claim 5; c) amended claims 3 and 11 to be in independent form; and d) added new claims 12-17. New claim 12 is discussed below. Claims 13-17 are essentially identical to claims 6-10, respectively, except that claims 13-17 depend from claim 3.

No new matter has been added.

I. Claim 12 from the Original Application

The Examiner noted that the original claims included a Claim 12 to a non-aqueous electrolyte secondary cell, but the previous Preliminary Amendment (dated March 17, 2005) did not include Claim 12, so there are only 11 claims presented.

At page 2, lines 7-8 of the outstanding Office Action, the Examiner indicated that Applicants will be allowed to reinsert Claim 12 without an election by original presentation being made.

II. Objections to the Claims and August 20, 2007 Telephone Interview

Initially it was noted that Claims 2, 3 and 5 were reported within the Office action (see page 3, last full paragraph) as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, yet there were no specific rejections cited within the Office Action under 35 U.S.C. § 112, second paragraph. Accordingly, Applicants' representative contacted the Examiner in order to clarify this issue within the Office Action. The Examiner stated that the 35 U.S.C. § 112, second paragraph statement was in error and that Claims 2, 3 and 5 would be allowable if rewritten in independent form.

III. Issues Under 35 U.S.C. § 102(b) and 103(a)

The following rejections are pending:

- (A) Claim 4 stands rejected under 35 U.S.C. § 102(b) as anticipated by Takahashi et al., U.S. Patent No. 5,378,381 (hereinafter “‘381 patent”);
- (B) Claims 1, 4 and 7-10 stand rejected under 35 U.S.C. § 102(b) as anticipated by Takahashi et al., U.S. Patent No. 5,643,490 (hereinafter “‘490 patent”); and
- (C) Claim 6 stands rejected under 35 U.S.C. § 103(a) as obvious over the ‘490 patent.

Applicants respectfully traverse Rejections (A), (B) and (C).

In the preliminary amendment filed March 17, 2005, claims 1 and 4 were listed as the only independent claims. Also, the Examiner has indicated in the outstanding Office Action that claims 2, 3 and 5 are allowable over the art. As such, Applicants amendment given above renders Rejections (A), (B) and (C) moot. As noted above, Applicants have: a) amended claim 1 to recite the subject matter of claim 2 and canceled claim 2; b) amended claim 4 to recite the subject matter of claim 5 and canceled claim 5; and c) amended claims 3 and 11 to be in independent form.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq., Reg. No. 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

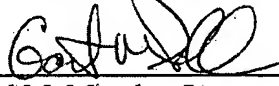
Application No. 10/528,051
Amendment dated September 21, 2007
Reply to Office Action of June 21, 2007

Docket No.: 0171-1190PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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